

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

KIRK E DECOVICH
SHEILA A DECOVICH
Debtor(s)

NOTICE OF MOTION AND MOTION
FOR DISMISSAL OR CONVERSION

Case No. - BKY 04-32262 GFK
Chapter 13

TO: All parties in interest under Local Rule 9013-3.

1. Jasmine Z. Keller, Trustee, moves the Court for the relief requested below and gives notice of hearing.
2. The Court will hold a hearing on this motion at 10:30 a.m., or as soon thereafter as counsel may be heard, on **September 23, 2004**, in U.S. Bankruptcy Court, Courtroom 228B, Second Floor, United States Courthouse, 316 North Robert Street, St Paul, Minnesota.
3. Any response to this motion must be filed and delivered not later than September 20, 2004, which is three days before the time set for the hearing (excluding Saturdays, Sundays, and holidays), or filed and served by mail not later than September 14, 2004, which is seven days before the time set for the hearing (excluding Saturdays, Sundays, and holidays). ***Unless a response opposing the motion is timely filed, the court may grant the motion without a hearing.***
4. The Court has jurisdiction of this motion pursuant to 28 U.S.C. §§157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This proceeding is a core proceeding. This motion arises under 11 U.S.C. §1307 and Bankruptcy Rule 1017. This motion is filed under Bankruptcy Rule 9013 and Local Rule 9013-1 *et seq.* The petition commencing this Chapter 13 case was filed on 4/14/04. The case is now pending in this Court.
5. If testimony is necessary as to any facts relevant to this motion, Lora Meier, Chapter 13 Office, 12 South 6th Street, Suite 310, Minneapolis, Minnesota, will testify on behalf of the Trustee.
6. The Trustee requests that this case be dismissed or converted to a Chapter 7 case because Debtor(s) failed to make payments to Trustee thereby creating current defaults or arrearages on plan payments of \$1600.00 as of September 3, 2004. The last payment credited to the Debtor(s)' account was on 7/15/2004. Total payments of \$1600.00 have been made to date hereof. Required monthly payments are currently \$800.00.

The September 2004 payment is not included in the listed default amount.

Any payment less than the amount required to bring the plan current will not prevent dismissal of this case. If the default, including the payment due for September, is brought current by the hearing date, the Trustee will strike the motion.

WHEREFORE, the Trustee requests an order granting the relief prayed for herein.

Jasmine Z. Keller, Trustee

Dated: September 3, 2004

/e/ Margaret H. Culp
Thomas E. Johnson #52000
Margaret H. Culp #180609
Counsel for Chapter 13 Trustee
12 South 6th Street., Ste. 310
Minneapolis, MN 55402
(612) 338-7591

VERIFICATION

I, Lora Meier, an employee of the Trustee, declare, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge, information and belief.

Dated: September 3, 2004

/e/ Lora Meier
Lora Meier
Chapter 13 Office

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

KIRK E DECOVICH
SHEILA A DECOVICH

Debtor(s)

UNSWORN DECLARATION FOR
PROOF OF SERVICE

Case No. - BKY 04-32262 GFK
Chapter 13

I, Lora Meier, declare that on the date stated below I served a copy of the Notice of Motion and Motion for Dismissal or Conversion and Unsworn Declaration of Proof of Service, upon each of the entities named below by mailing to each of them a copy thereof, by enclosing same in an envelope with first-class mail, postage prepaid and depositing same in the post office at Minneapolis, Minnesota, addressed to each of them as follows:

Copy to Debtor(s) addressed to:

KIRK E DECOVICH
SHEILA A DECOVICH
6624 - 134TH COURT
APPLE VALLEY, MN 55124

Copy to Debtor's Attorney addressed to:

Curtis K. Walker
4356 Nicollet Ave S
Minneapolis, MN 55409-2033

Additional Copy(s) addressed to:

RAMSEY LAW FIRM, P.C.
PO BOX 201347
ARLINGTON TX 76006-

Wells Fargo Home Mortgage, Inc.
c/o McCalla, Raymer, et.al.-Bank. Dept.
1544 Old Alabama Road
Roswell GA 30076-

Copy to United States Trustee (By electronic means):

United States Trustee
1015 U.S. Courthouse
300 South Fourth Street
Minneapolis, Minnesota 55415

and I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: September 3, 2004

/e/ Lora Meier
Lora Meier
Chapter 13 Office